

2009 JAN -5 AM 11:12
dw

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
STATESBORO DIVISION

WILLIE LEE GARDNER,

Plaintiff,

CIVIL ACTION NO.: CV608-016

vs.

ROGERS STATE PRISON and
DANIEL D. STONE, Warden,

Defendants.

ORDER

Presently before the Court are Plaintiff's Objections to the Magistrate Judge's Report, wherein he recommended that Defendant's Motion for Summary Judgment be granted and that Plaintiff's Complaint be dismissed. After an independent review of the record, the undersigned adopts the Magistrate Judge's Report and Recommendation as the opinion of the Court.

In his Objections, Plaintiff contends that he had a right to \$25 upon his parole from Georgia Department of Corrections custody. Plaintiff further contends that Defendant Stone had knowledge that \$1 was removed from his reserve account. Plaintiff asserts that Defendant Stone's actions or omissions with regard to Plaintiff's money were pursuant to this position as warden. Plaintiff further asserts that Congress can abrogate the Eleventh Amendment without the state's consent. (Doc. No. 17).

Plaintiff's Objections consist of assertions which are unresponsive to the Magistrate Judge's Report and Recommendation and are without merit. The

Magistrate's Report and Recommendation is adopted as the opinion of the Court. Defendants' Motion to Dismiss (Doc. No. 11) is **GRANTED**. Plaintiff's Complaint is **DISMISSED** for failure to state a claim upon which relief may be granted under 42 U.S.C. § 1983. The Clerk of Court is authorized and directed to enter the appropriate judgment of dismissal.

SO ORDERED, this 3 day of Jan, 2009.



B. AVANT EDENFIELD, JUDGE
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA